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EXAMINER

FLEISCHER, MARK A

ART UNIT	PAPER NUMBER
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3623

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09/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,272	Applicant(s) D'ELENA ET AL.	
	Examiner MARK A. FLEISCHER	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-8,12-14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-8,12-14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This Final Rejection is in reply to the response to the first Non-Final rejection said response filed on 23 June 2008.
2. Claims 1, 8 and 14 have been amended.
3. Claims 2–4, 9–11 and 15–17 have been canceled.
4. Claims 1, 5–8, 12–14 and 18–20 are currently pending and have been examined.

Response to Amendment

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
6. The objections to claims 2, 9 and 15 in the previous office action are withdrawn in light of Applicant's amendments cancelling these claims.
7. The rejection of claims 1, 8 and 14 under 35 U.S.C. §112, 2nd paragraph are withdrawn in light of Applicant's amendments to these claims.

Response to Arguments

Applicant's arguments filed 23 June 2008 have been considered but they are not persuasive. The crux of Applicant's arguments is that the cited prior art of record do not teach evaluating a user (employee) based on "core skills" and "dimension skills" (Remarks, page 14) and further fail to teach, alone or in combination, application of "'progression requirements' for any type of job." (Remarks page 16). More specifically, Applicant points out that the prior art describes "[] systems [that] either have general evaluation criteria where each employee is measured by the same set of skills (e.g., core skills) without regard to their particular profession, or narrow evaluation criteria is used to evaluate an employee's competency in a particular profession. While

Art Unit: 3623

both types of systems are useful, the systems described by Mui and Miller do not address both types of skills.” Applicant clarifies the significant terms used: ““core skills” may include “leadership,” “communication,” and “teamwork” skills because no matter what an individuals [sic] particular profession (e.g., engineer, software developer, marketing, etc.) these skills are each generalized skills helpful in supporting business objectives. In contrast, “dimension skills” pertain to a particular profession. Using the example from above, an engineer’s dimension skills may include circuitry design, power design,...” (Remarks page 15). Applicant further points out that Mui merely mentions “skills and competencies” as opposed to “retrieving skills”. Applicant further argues that “Mui does not teach storing or retrieving “core skills” and instead is focused on rather detailed programming skills (e.g., “dimension skills”).”

As further pointed out below, Examiner respectfully disagrees: Mui refers to an “Information Server that ‘consolidates and delivers’ ‘metadata’ user profiles that include “skill competencies...” (Mui [0963]). Indeed, Mui specifically mentions a number of skills that fall under the rubric of either dimension skills or core competencies. For example, Mui [1247] states:

“A Competency is the skill, knowledge, or behavior being measured, calculated, acquired, specified, or tested. A Competency has one or more Competency Levels that comprise its “scale”. Example Competencies include: Java Programming, Written Communications, Product Knowledge, Quality Attitude, and People Skills. Users of the Performance Application can create a plurality of Competency data records representing Competencies which may be stored in a Competency database. The Competency data record may comprise the name of the Competency, a description of the Competency, and the requirements for holding different levels of the Competency. The Performance Application utilizes created Competency records in establishing Competencies held by individuals and Competencies required to achieve goals.” (emphasis added)

The aforementioned quote thus describes what Applicant refers to as both ‘core competencies’ and ‘dimension skills’ (see the emphasized text for examples).

Applicant also argues that the prior art (Magrino in particular) fails to teach “matching ‘progression requirements’ to ‘user capabilities’” (Remarks page 17) and more generally, fails to teach anything pertaining to “progression requirements” (Remarks page 17) or “information that would used to set a path or course of action (“progression”) for a particular capability.” (Remarks page 18). Yet, Magrino [0058] states “Category fields for professional career path choices can also be provided. Such fields can be used as a basis for identifying the requirements that must be met by a candidate to progress to the identified career choice position or level.” (emphasis added). Moreover, Magrino’s invention is entitled: “HUMAN CAPITAL MANAGEMENT PERFORMANCE CAPABILITY MATCHING SYSTEM AND METHODS” (emphasis added). Mui also provides means to assess “competency gaps” (see at least Mui [1240]) and methods that address them (Mui [1243]).

Finally, Applicant argues that the prior art “does not teach or suggest differentiating between “core skills” and “dimension skills” and further does not teach or suggest evaluating a user (e.g., employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking.” But the specific delineation of classes of skills or the lack thereof leads to the same results—an assessment of a user based on a variety of skills and progression. Indeed, much of the prior art concerns rating individuals in a wide variety of categories. Depending on the associated weights assigned, some categories will not affect an overall rating while other categories will. Afterall, virtually all employees have *some* skill levels in a wide variety of categories even if the particular domain is outside their area of expertise. For example, most managers have some typing skills, janitors similarly have decision making skills, etc. Thus, the entire spectrum of skills and competencies can be applied, scored, weighted and assessed among all individuals in an enterprise. In other words, the claimed utility of Applicant’s invention is to highlight those skill areas where a company can obtain the greatest return on investment in developing reasonable progression requirements for a given individual and “dynamically measure a workforce’s capabilities and develop the skills of the workforce to respond to changing market needs.” (Specification page 2, line 28).

Essentially, Applicant is claiming that the delineation itself of the categories of skills, *i.e.*, cores skills versus 'dimension skills' imparts some utility to the invention. These terms, however, are merely non-functional descriptive material and are thus not given patentable weight. See Diamond v. Diehr, 450 U.S. 175, 185-86, 209 USPQ 1, 8 (noting that the claims for an algorithm in Benson were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer."). Such a result would exalt form over substance. In re Sarkar, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978). Even assuming that these terms are to be given patentable weight, the prior art accounts for these classifications of skills and even provides the same dichotomy: "skills and competencies" (Mui [0972]) and "User profiles may include skill competencies and gaps, roles and responsibilities, interests and career goals..." See (Mui [0963]) where 'roles and responsibilities' encompass the 'core competencies' referred to by the Applicant while the 'skills competencies' encompass professional skills. As noted in Mui at [1246-51] there are many distinctions possible between competency levels and classifications with "many-to-one" and "one-to-many" relationships among them that are used in assessing an individual and provide guidance in assessing a "competency gap" (progression indicator) and means to "address that gap" (Mui [1251]). Moreover, any overall metric determined using the two broad classes above can be equivalent to using just a single classification encompassing all skills and competencies the weightings of each element are simply different. Examiner notes that there are no limitations offered on what these weightings must be in the Application, hence any given skill or competency can be given the same effect in an overall evaluation depending upon the associated weight given regardless of whether there are two broad categories or just one. Thus, the prior art does teach methods for assessing a wide range of skills such as the core competencies and dimension skills of the Applicant, and further provides means to use these assessments to determine an overall evaluation (see *e.g.*, Mui [1408] "after the overall rating is calculated").

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 5–8, 12–14, and 18–20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mui (US PGPub 20030229529 A1) in view of Miller (US PGPub 20030110067 A1) and further in view of Magrino (US PGPub US 20020198765 A1).

Claims 1, 8 and 14:

Although claims 1, 8 and 14 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, as shown, describes and/or discloses the following limitations.

- *retrieving one or more core skills from a data store, wherein each user is associated with one or more of the core skills* (Mui, in at least [0972] states: “Information Distributor [] can locate and deliver a wide variety of resources [and] supports a wide variety of descriptive information required by business applications, from standard web metadata to catalog information to skills and competencies.” (emphasis added) where ‘information’ that is ‘deliver[ed]’ must, *ipso facto* be *retriev[ed]* and where ‘catalog...’ corresponds to *core skills*. Note that this also that this pertains to records of *each of a* as described in the abstract: “The method comprises establishing competency records, person records, and building desired goal profile records. Competencies identified in person records are compared to required competencies identified in goal profile records to identify best fit persons to utilize in achieving a goal.”), and wherein each of the core skills is a generalized skill useful in supporting

an organization's business objectives (Mui in at least [1245] states: "The person data record may contain the person's name, job title, competencies and associated competency levels held, identified or assigned goals, and other general human resources related information." (emphasis added) and in [1247] describes and/or discloses the meaning of 'competency' to wit: "A Competency is the skill, knowledge, or behavior being measured, calculated, acquired, specified, or tested. [...] Example Competencies include: Java Programming, Written Communications, Product Knowledge, Quality Attitude, and People Skills. Users of the Performance Application can create a plurality of Competency data records representing Competencies which may be stored in a Competency database. The Competency data record may comprise the name of the Competency, a description of the Competency, and the requirements for holding different levels of the Competency. The Performance Application utilizes created Competency records in establishing Competencies held by individuals and Competencies required to achieve goals." (emphasis added) where the emphasized text includes examples of a *generalized skill*... that are 'required to achieve goals' which corresponds to *an organization's business objectives*);

- *identifying a progression requirement stored in a memory for each of the core skills and for the subset of dimension skills; including the retrieved core skills, the subset of dimension skills, and the identified progression requirements in a framework* (Mui, in at least [1285] states: "The Performance Application may utilize goal records to monitor progress on the goal, assign goals to person, and identify Competencies associated with the goal. Each goal record may be associated with a subgoal profile record or parent goal record, and each subgoal or parent record may have additional levels of subgoals or parents, with each subgoal record or parent goal record identifying competencies and associated competency levels helpful in achieving the desired subgoal or parent goal." (emphasis added)).

- *storing the framework* (Mui in at least [0044] uses the term 'framework' to describe the entire system; see also Mui's use of the term 'platform' at [0003]) *in one of the nonvolatile storage devices* (Mui in at least [0281] for 'storage') *at a location accessible by an evaluation software routine included in the workforce evaluation tool* (Mui in at least [1258] refers to 'the Competency Proficiency algorithm' that performs "evaluations" and wherein the algorithm is stored along with other data structures and programs as in, e.g., [0077] and [0257] and many other references);
- *evaluating one of the plurality of users using the framework and the evaluation software routine, the evaluating resulting in an evaluated user* (Mui, in at least claim 11 states: "[...] held competency level by a person is determined from evaluations such as personal assessments, test, and courses." (emphasis added) where the emphasized text collectively constitutes a framework or structure for assessing a user.)
- *computing a core skill ranking for each of the core skills and computing a dimension skill ranking for each of the subset of dimension skills, wherein the core skill rankings and the dimension skill rankings are stored in a memory* (Mui, in at least [1357] states: "The Rating Providers submit their feedback in the form of ratings and comments on various aspects of the individual performance: Goal Assignments, Job and Goal Competencies, and any other competencies judged pertinent for the review." (emphasis added) where the emphasized text corresponds to the limitation.);
- *identifying a plurality of user improvement areas based on the core skill rankings and the dimension skill rankings, wherein at least one of the user improvement areas corresponds to one of the core skills, wherein at least one of the user improvement areas corresponds to one of the dimension skills* (Mui [213]: "Competency gap analysis can be applied to either an individual's goals [] or roles []. The analysis compares the required competencies for reaching a goal [] or filling a role [] (either held or targeted) to actual held competencies and generates a competency gap []."

(emphasis added) where the 'competency gap analysis' corresponds to *identifying a plurality of user improvement areas* and 'to actual ...' corresponds to *based on the core skill rankings and the dimension skill rankings*. Mui does not specifically state that *at least one of the user improvement areas* must be from a specified category such as core or dimension skills, but Examiner takes **Official Notice** that it is old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement. See also Mui [1267] regarding "A Criticality Level".),

- *wherein the identified user improvement areas are selected in order to increase the overall ranking of the user* (Mui [0213]: "Competency gap analysis can be applied to either an individual's goals [] or roles []. The analysis compares the required competencies for reaching a goal [] or filling a role [] (either held or targeted) to actual held competencies and generates a competency gap []. Learning interventions [...] that fill the competency gap [] are the identified." (emphasis added) where the emphasized text corresponds to *the identified user improvement areas*. In [1251] "and the ability of a competency provider to address that gap." (emphasis added) where 'to address...' corresponds to *to increase the overall ranking of the user*).

Mui does not specifically refer to a *progression requirement* as disclosed in the specification, Miller, in an analogous art, does in at least [0001] wherein he states: "...a method for assisting and expediting an organization's progression through the levels of the Capability Maturity Model (CMM)." (emphasis added) where 'progression' and 'levels' corresponds to a *subset of dimension skills*...Also, in at least [0096] Miller states: "(3) designing career progression...to reward individuals for desired contributions." (emphasis added) where 'contributions' corresponds to those associated with a *subset of dimension skills* to which their competencies make 'contributions'. While Mui describes, as shown above, performance measures and performance profiles (see Mui [abstract] "goal profile records", and "User profiles may include skill

competencies and gaps, roles and responsibilities, interests and career goals.”), Mui does not specifically calculate rankings based on the two groupings, *i.e.*, *core skills* and *dimension skill*. But Examiner takes **Official Notice** that it is old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies. This is evidenced by the very notion of “competency profiles” as in Mui [1246], in Miller [0097] “[t]he organization may determine profiles for the ideal candidates...” (emphasis added), in Magrino [0009] “[...] the intrinsic and progressive variability of workforce skills will inevitably lead the ability to update the categorization capabilities of conventional HCM systems.”, and in D’Elena [0034]: “Skills [] includes skills which may be segmented into two categories, core skills and functional skills. Core skills are profession specific skills and functional skills define a job role in more detail.” (emphasis added). Mui also does not specifically describe and/or disclose the following limitations, but Miller does as shown.

- retrieving, from a data store, a subset of dimension skills from a plurality of dimension skills, wherein the subset of dimension skills correspond to a subset of the plurality of users* (Miller, in at least [0073] states: “Returning to FIG. 2G, the next task in the mini-assessment and appraisal is to assess the development of an onsite schedule, step 262. The core of the assessment during step 260 is made up of the onsite period, which usually lasts from five to ten days. The onsite period consists of three basic activities: (1) gathering information through interview sessions with project leaders, team leaders, and functional area representatives; (2) mapping information to processes areas within the scope of the assessment through consolidation sessions [...]” and in [0094] states: “The competency model definition will document the knowledge, skills and other attributes/abilities associated with high performance on a job. The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships [...] In designing a competency model [...], the organization should

group together related competencies to form a competency model. A competency is skills, and other attributes/abilities associated with high performance on a job; and a competency model is a group of related competencies required to perform a career field such as team leader or technical coach. Similarly, [...], the organization defines the roles played by individuals, the jobs they hold, the teams in which they work, and the relationship between teams. The organization should logically define roles for individuals on the basis of their competencies, [...]" (emphasis added) where 'group together...' and 'competency model is ...' corresponds to *a subset of dimension skills...*. Note that 'gathering information...' and 'mapping information' as disclosed corresponds to *retrieving a subset...*) and wherein each of the dimension skills is a *profession-related skill corresponding to a particular profession found in the organization* (Miller, in at least [0094] states: "...a competency model is a group of related competencies required to perform a career field such as team leader or technical coach." (emphasis added) where the emphasized text corresponds to examples of *skill corresponding to a particular profession found in the organization*);

Both Mui and Miller provide related systems and methods for establishing a framework and methodology for increasing and improving the effectiveness of a workforce by accurate assessments of a spectrum of skills and competencies. Both provide means to segregate differing areas of competence, creation of competency models and evaluating them in the context of an enterprise's mission so as to "implement systemic changes to achieve higher levels of [] maturity." (Miller [0013]) and thus "defines a means for assessing, rewarding, and developing the individuals [sic] in an organization." (emphasis added) (Miller [0096]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Mui and Miller and the technical ability existed to improve the system and methods in the same and/or obvious ways and the result of the improvement was predictable.

Neither Mui nor Miller specifically describe and/or disclose the following limitations, but Magrino, in an analogous art, does as shown.

- *retrieving a user capability from a capabilities data store, the user capability corresponding to the evaluated user* (Magrino, in at least [0084] states: “The underlying knowledge base for the engine [] is again preferably stored and retrieved from the key phrase database [], though in a form most appropriate for use by the engine []” (emphasis added) where in [0034] the “work preferences, skills, accomplishments, and other work and life-style attributes of the individual, together reflecting the value of the individual as a member of the workforce, are collectively referred to as performance capabilities.” (emphasis added) where ‘retrieved from...’ corresponds to *retrieving* and ‘work preferences...’ and ‘individual’ and ‘capabilities’ corresponds to *a user capability*. Note that in [0046] this pertains to a data set of one who is “evaluated”);
- *matching the user capability with one of the progression requirements that are included in the framework* (Magrino, in at least [0082] refers to “matching against position specifications and cumulative scoring.” where in [0078] the “performance capability skills held and any skill level rankings assessed by the candidate may be approved...” (emphasis added) where ‘skill level’ corresponds to *progression requirements*. See also [0010]: “The detailed skills of each workforce member is presumed to be fully and uniformly assessed on skills templates. [...] The HCM system [...] then operates to match skill templates against project templates subject to a project skills weighting profile.);
- *computing an overall ranking based upon the plurality of skill rankings* (Magrino [0016] “This is achieved in the present invention by providing a system, executable by computer, for ranking the skills sets of a plurality of members of a workforce relative to a requirements set representative of a position within an organization. The method includes selecting, from a workforce database, a member set of performance capability data sets matching a defined requirements set and scoring predetermined elements of the performance capability data sets of the member set based on

element score values stored in the workforce database. [...] An ordered ranking of the plurality of members is then determined based on the accumulated scores of each of the performance capability data sets of the member set.” (emphasis added)), *wherein the overall ranking is stored in the memory* (Magrino [abstract]: “[...] scoring predetermined elements of the performance capability data sets of the member set based on element score values stored in the workforce database.” (emphasis added)); and

Mui/Miller describes and/or discloses methods for "enterprise workforce planning" and a type of "process improvement framework" wherein users or employees are given a roadmap to assist in organizational transformation. Mui describes ways to assess individuals and Miller provides the framework by which there are controlled improvements in organizational competence. Magrino also describes and/or discloses categories for measuring profession-specific skills and competencies and "for efficiently, accurately and comprehensively evaluating members of a workforce based on a skills requirements specification." (Magrino [0015]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions of Mui/Miller and Magrino so that organizations can assess both professional skill levels and business-specific skill levels and thereby obtain a more detailed and hence useful skill-profile of their workforce so that a workforce is better trained and management is better informed as to how to best to utilize the competencies of the workforce. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

Claims 5, 12 and 18:

Although claims 5, 12 and 18 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose the limitations of claims 1, 8 and 14 as shown above. Mui further describes and/or discloses the following limitations.

Art Unit: 3623

- *the subset of dimension skills constitutes a first dimension skills module, the method further comprising:*
 - *selecting one or more dimension skills from the plurality of dimension skills, the selecting resulting in a second dimension skills module* (Mui, in at least [1289] states: “A Goal Metric supports a finite number of measurement units or categories, and can optionally relate to a set of Competencies that might be needed to affect the metric in a meaningful way.” (emphasis added) and in at least [1291] further describes various ‘categories’ of skills.); *and*
 - *replacing the first dimension skills module with the second dimension skills module in the framework* (Mui, in at least [1357] states: “The Rating Providers submit their feedback in the form of ratings and comments on various aspects of the individual performance: Goal Assignments, Job and Goal Competencies, and any other competencies judged pertinent for the review.” (emphasis added) where ‘rating providers submit’ corresponds to *replacing the first dimension skills module* and ‘various aspects...’ corresponds the *first and second dimension skills module[s]*. Note that the effect of utilizing ‘various aspects’ is equivalent in its effect as *replacing* since it involves consideration of other ‘aspects’ *i.e., dimensions* of skill level assessments.).

Claims 6, 13 and 19:

Although claims 6, 13 and 19 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose the limitations of claims 1, 8 and 14 as shown above. Mui further describes and/or discloses the following limitations.

- *identifying one or more functional skills that correspond to the subset of dimension skills* (Mui, in at least [1232] states: “An organization's business goals [] may be specific goals at any level: enterprise, business unit, function, project, or department level. By disaggregating the organizational goals into smaller segments [...] a user

[...] can determine the required goals [] for each jobholder. These segmented goals drive job definitions and required competencies which the jobholder must possess for the organization to achieve these goals.” (emphasis added) where the ‘function’ corresponds to a *functional skill* per the ‘required competencies’ and ‘disaggregating ...’ corresponds to the act of *identifying one or more functional skills...* since that process is used to define and hence identify.); and

- *including the identified functional skills in the framework* (Mui, in at least [1214] states: “The Performance module [...] defines the services available for managing human performance, including competencies, goals, and feedback services [...]” (emphasis added) where the ‘defined’ set of competencies is ‘included’ in the ‘performance module’ hence *the identified functional skills [are included] in the framework.*).

Claims 7 and 20:

Although claims 7 and 20 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose the limitations of claims 1, 8 and 14 as shown above. Mui and Miller do not describe and/or disclose the following limitations, but Magrino, in an analogous art does as shown.

- *wherein the framework is selected from the group consisting of a profession-specific framework and a business function-specific framework* (Magrino, in at least [0058] states: “Professional Skills: category fields are provided to permit entry of specific work experience, knowledge and training, certifications, and degrees and other professional qualifications received. Categorized fields can be provided to permit entry of specific professional qualifications, which are prerequisites for specific, typically professional positions, or required for maintenance of a typically professional position, such as mandatory continuing education credits.” (emphasis added). Miller describes and/or discloses the following elements of the aforementioned limitations. Miller, in at least [0211] states: “The organization performs step [] to identify the

functional, technical, and performance requirements for the technology infrastructure that should support the solution [... and...] identifies key performance indicators, [...]" (emphasis added) where 'professional skills: category...' corresponds to the *profession-specific [skills] framework* and 'functional' and 'performance requirements...' corresponds to the *business-specific framework*).

Mui/Miller describes and/or discloses a process improvement framework that incorporates business-specific categories and measures for evaluating human resources while Magrino describes and/or discloses categories for measuring profession-specific skills and competencies so as to "accurately and comprehensively evaluating members of a workforce based on a skills requirements specification." (Magrino [0015]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions of Mui/Miller and Magrino so that organizations can assess both professional skill levels and business-specific skill levels and thereby obtain a more detailed and hence useful skill-profile of their workforce. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon that is considered pertinent to applicant's disclosure are:

- D'Elena (US PgPub 20030182178), System and method for skill proficiencies acquisitions describes and/or discloses use of categories of skills and competencies.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Dr. **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Beth Van Doren** whose telephone number is **571.272.6737** may be contacted.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Art Unit: 3623

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

Mark A. Fleischer, Ph.D.

/Mark A Fleischer/ 25 August 2008

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623